

1 SENATE BILL NO. 273

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Privileges and Elections

4 on _____)

5 (Patron Prior to Substitute--Senator Ebbin)

6 A BILL to amend and reenact §§ 24.2-702.1, 24.2-704, 24.2-706, and 24.2-707 of the Code of Virginia,
7 relating to elections; absentee voting; witness requirement; additional voter information required
8 on return ballot.

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That §§ 24.2-702.1, 24.2-704, 24.2-706, and 24.2-707 of the Code of Virginia are amended and**
11 **reenacted as follows:**

12 **§ 24.2-702.1. Federal write-in absentee ballots.**

13 A. Notwithstanding any other provision of this title, a covered voter, as defined in § 24.2-452, may
14 use a federal write-in absentee ballot in any election. Such ballot shall be submitted and processed in the
15 manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et
16 seq.) and this article.

17 B. Notwithstanding any other provision of this title, a federal write-in absentee ballot submitted
18 pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an
19 absentee ballot application and a completed absentee ballot, provided that the ballot is received no later
20 than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the
21 voter offers to vote, and the application contains the following information: (i) the voter's signature;
22 however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature
23 box; (ii) the voter's printed name; (iii) the voter's date of birth; (iv) the last four digits of the voter's social
24 security number; (v) the county or city in which he is registered and offers to vote; ~~(iv)~~ (vi) the residence
25 address at which he is registered to vote; ~~(v)~~ (vii) his current military or overseas address; and ~~(vi)~~ (viii)
26 the signature of a witness who shall sign the same application.

27 C. This section shall not be construed to require that an absentee ballot be sent to the absentee
28 voter on receipt of a federal write-in absentee ballot unless the voter has also submitted an absentee ballot
29 application pursuant to § 24.2-701.

30 **§ 24.2-704. Applications and ballots for persons requiring assistance in voting; penalty.**

31 A. The application for an absentee ballot shall provide space for the applicant to indicate that he
32 will require assistance to vote his absentee ballot by reason of blindness, disability, or inability to read or
33 write.

34 B. On receipt of an application from an applicant who indicated that he will require assistance due
35 to a visual impairment or print disability, the general registrar shall offer to provide to the applicant a
36 ballot marking tool with screen reader assistive technology made available pursuant to § 24.2-103.2. If
37 the applicant opts to use such tool, the general registrar shall send by mail to him a ballot return envelope
38 and accessible instructions provided by the Department for using such tool and returning the marked
39 ballot. The general registrar shall cause the outer envelope containing the ballot return envelope and
40 accessible instructions to have a tactile marking that identifies the outer envelope as the outer envelope to
41 the voter. For purposes of this section, "tactile marking" includes a hole punch, a cut corner, or a tactile
42 sticker.

43 An absentee voter using such tool shall return the marked absentee ballot in accordance with the
44 instructions provided by the Department.

45 No ballot marked with the electronic ballot marking tool shall be rejected because the ballot was
46 printed on regular paper. No ballot marked with the electronic ballot marking tool shall be rejected on the
47 basis of the position of the voter's signature or address on the ballot return envelope as long as the voter's
48 signature or address is anywhere on the ballot return envelope.

49 C. On receipt of an application from an applicant marked to indicate that he will require assistance
50 due to any other disability or if an applicant offered the ballot marking tool pursuant to subsection B
51 declines to use such tool, the general registrar shall deliver, with the items required by § 24.2-706, the
52 voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person
53 assisting him shall complete the form by signing the request for assistance and statement required of the

54 assistant. If the voter is unable to sign the request, the ~~witness~~ person assisting him will note this fact on
55 the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance
56 for absentee voters. Any person who willfully violates the provisions of this section or § 24.2-649 in
57 providing assistance to a person who is voting absentee shall be guilty of a Class 5 felony.

58 **§ 24.2-706. Duty of general registrar on receipt of application; statement of voter.**

59 A. On receipt of an application for an absentee ballot, the general registrar shall enroll the name
60 and address of each registered applicant on an absentee voter applicant list that shall be maintained in the
61 office of the general registrar with a file of the applications received. The list shall be available for
62 inspection and copying and the applications shall be available for inspection only by any registered voter
63 during regular office hours. Upon request and for a reasonable fee, the Department of Elections shall
64 provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list
65 shall be used only for campaign and political purposes. Any list made available for inspection and copying
66 under this section shall contain the post office box address in lieu of the residence street address for any
67 individual who has furnished at the time of registration or subsequently, in addition to his street address,
68 a post office box address pursuant to subsection B of § 24.2-418.

69 No list or application containing an individual's social security number, or any part thereof, or the
70 individual's day and month of birth, shall be made available for inspection or copying by anyone. The
71 Department of Elections shall prescribe procedures for general registrars to make the information in the
72 lists and applications available in a manner that does not reveal social security numbers or parts thereof,
73 or an individual's day and month of birth.

74 B. The completion and timely delivery of an application for an absentee ballot shall be construed
75 to be an offer by the applicant to vote in the election.

76 The general registrar shall note on each application received whether the applicant is or is not a
77 registered voter. In reviewing the application for an absentee ballot, the general registrar shall not reject
78 the application of any individual because of an error or omission on any record or paper relating to the
79 application, if such error or omission is not material in determining whether such individual is qualified
80 to vote absentee.

81 C. If the application has been properly completed and signed and the applicant is a registered voter
 82 of the precinct in which he offers to vote, the general registrar shall, at the time when the printed ballots
 83 for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate or other
 84 evidence of either first-class or expedited mailing or delivery from the United States Postal Service or
 85 other commercial delivery provider, or deliver to him in person in the office of the registrar, the following
 86 items and nothing else:

87 1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except
 88 in presence of a witness."

89 2. An envelope for resealing the marked ballot, on which envelope is printed the following:
 90 "Statement of Voter."

91 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016,
 92 that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last
 93 November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN
 94 VIRGINIA including the house number, street name or rural route address, city, zip code); that I received
 95 the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope
 96 marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or
 97 knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required
 98 to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and
 99 will not vote in this election at any other time or place.

100 Signature of ~~Voter~~ voter _____

101 Last four digits of voter's social security number _____

102 Voter's date of birth _____

103 Date _____

104 Signature of witness _____"

105 For elections held after January 1, 2004, instead of the envelope containing the above oath, an
 106 envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the

107 Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. § 20301 et seq.) shall be sent to voters
108 who are qualified to vote absentee under that Act.

109 When this statement has been properly completed and signed by the registered voter and witnessed,
110 his ballot shall not be subject to challenge pursuant to § 24.2-651.

111 3. An envelope, properly addressed and postage prepaid, for the return of the ballot to the general
112 registrar by mail or by the applicant in person, or to a drop-off location.

113 4. Printed instructions for completing the ballot and statement on the envelope and returning the
114 ballot. Such instructions shall include information on the sites of all drop-off locations in the county or
115 city.

116 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b)
117 of 52 U.S.C. § 21083 of the Help America Vote Act of 2002 to show identification the first time the voter
118 votes in a federal election in the state, the printed instructions shall direct the voter to submit with his
119 ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank
120 statement, government check, paycheck or other government document that shows the name and address
121 of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of
122 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a
123 provisional ballot under the provisions of § 24.2-653.01. The Department of Elections shall provide
124 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to §
125 24.2-653.01 and this section.

126 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee
127 Voting Act (52 U.S.C. § 20301 et seq.), information provided by the Department of Elections specific to
128 the voting rights and responsibilities for such citizens, or information provided by the registrar specific to
129 the status of the voter registration and absentee ballot application of such voter, may be included.

130 The envelopes and instructions shall be in the form prescribed by the Department of Elections.

131 D. The general registrar may contract with a third party for the printing, assembly, and mailing of
132 the items set forth in subsection C. The general registrar shall provide to the contractor in a timely manner
133 the names, addresses, precincts, and ballot styles of voters requesting an absentee ballot by mail. The

134 vendor shall provide to the general registrar a report of the voters to whom the absentee ballot materials
135 have been sent.

136 E. If the applicant completes his application in person under § 24.2-701 at a time when the printed
137 ballots for the election are available, he may request that the general registrar send to him by mail the
138 items set forth in subdivisions C 1 through 4, instead of casting the ballot in person. Such request shall be
139 made no later than 5:00 p.m. on the eleventh day prior to the election in which the applicant offers to vote,
140 and the general registrar shall send those items to the applicant by mail, obtaining a certificate or other
141 evidence of mailing.

142 F. If the applicant is a covered voter, as defined in § 24.2-452, the general registrar, at the time
143 when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 or
144 deliver in person to the applicant in the office of the general registrar the items as set forth in subdivisions
145 C 1 through 4 and, if necessary, an application for registration. A certificate or other evidence of mailing
146 shall not be required. If the applicant requests that such items be sent by electronic transmission, the
147 general registrar, at the time when the printed ballots for the election are available but not later than the
148 deadline set forth in § 24.2-612, shall send by electronic transmission the blank ballot, the form for the
149 envelope for returning the marked ballot, and instructions to the voter. Such materials shall be sent using
150 the official email address or fax number of the office of the general registrar published on the Department
151 of Elections website. The State Board of Elections may prescribe by regulation the format of the email
152 address used for transmitting ballots to eligible voters. A general registrar may also use electronic
153 transmission facilities provided by the Federal Voting Assistance Program. The voted ballot shall be
154 returned to the general registrar as otherwise required by this chapter.

155 G. The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this
156 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole
157 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or
158 (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any
159 person who fails to discharge his duty as provided in this section through willful neglect of duty and with
160 malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

